

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

IN RE:)	
)	
CONNIE SUE CARICO)	Case No. 19-11757-KHK
)	
Debtors)	Chapter 7
)	

RESPONSE TO TRUSTEE'S OBJECTION TO EXEMPTION

COMES NOW the Debtor, Connie Sue Carico, by counsel, and in response to Chapter 7 Trustee Donald F. King's *Trustee's Objection to Exemption*, states the following:

1) The trustee is correct that 3408 Fitchburg Court, Woodbridge, VA 22193 was originally titled in the Debtor's name alone, and subsequently deeded to she and Donna Sanderson as tenants-by-the-entireties. He is also correct that the transfer was made concurrently with a refinance of this property.

2) However, the transfer of 3408 Fitchburg Court was proper and it was not done for the reasons stated by the trustee. Specifically, the transfer was made for consideration, and it was not done to simply create a tenants-by-the-entireties exemption to shield the property from creditors.

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The Transfer of 3408 Fitchburg Court in Woodbridge
Was Made for Fair Consideration

- 1) Mrs. Carico originally purchased the property in question on June 26, 2002.

Although the house was only in her name, Mrs. Carico and Mrs. Sanderson were already in a committed relationship. They have been living together in the property since it was purchased. See Form 1040s for tax years 2002-2005 and 2008-2012, and W-2 statements for 2015-2016, collectively as *Exhibit #1*.

2) Although their union could not be legalized by marriage until allowed by federal law, Mrs. Carico and Mrs. Sanderson have essentially lived together as spouses since the property was purchased. Mrs. Sanderson has contributed all of her income to pay household expenses, including the mortgage, utilities, insurance, etc. As can be seen in *Exhibit #1*, her income and contributions more than doubled over that sample fourteen year period.

3) At the time the transfer was made, 3408 Fitchburg Court was in a state of disrepair. The property needed new windows, gutters and a roof. Mrs. Carico and Mrs. Sanderson did not have savings to make those repairs. Although there was equity in the property that could be utilized, Mrs. Carico's income at the time was only approximately \$30,000 per year and she could not qualify to utilize that equity. Mrs. Sanderson, however, was making almost \$55,000 per year as well. See page 2 of "Uniform Residential Loan Application" attached as *Exhibit #2*.

4) Additionally, at the time Mrs. Carico had two loans with Chase on the property at relatively high interest rates. The first mortgage had a balance of approximately \$142,000 and an

interest rate of 6.375%, while the second mortgage had a balance of approximately \$32,000 and an interest rate of 8.95%. The two loans together cost \$1,669.99 per month. See Chase statements attached as *Exhibit #3*.

5) Because Mrs. Sanderson agreed to be a co-borrower on the new loan, the new interest rate was only 3.875%, and the monthly payment is only \$1,483. See Schedule J of Debtor's schedules, as well as "Amortization Schedule" attached as *Exhibit #4*.

6) Additionally, even though the mortgage payment is now significantly lower, Mrs. Carico was able to get cash out when she refinanced the property to pay off a significant amount of unsecured debt. Specifically, \$10,000 was paid to Capital One, \$9,281 was paid to FNB Omaha, and \$7343 was paid to SYNCB/SamsDC. Also at settlement, Mrs. Carico received \$8,749.88 to use towards home improvements. These debts that belonged to Mrs. Carico were paid only because Mrs. Sanderson agreed to be jointly liable on a new debt to pay them. See Final ALTA Settlement Statement attached as *Exhibit #5*.

7) But the money received at settlement was not enough to pay for the extensive repairs needed on the property in question. Now on the title, Mrs. Sanderson also agreed to incur debt to enable she and Mrs. Carico to make the necessary repairs. See Remodeling Agreement attached as *Exhibit #6*.

8) Because she had excellent credit (*Exhibit #7*), Mrs. Sanderson was able to borrow money from GreenSky to make the needed repairs. She is still paying off that loan today. See GreenSky statement attached as *Exhibit #8*.

9) It is clear that the property transfer in this case was not made to a spouse simply to avoid creditors. On the contrary, the property transfer was necessary so that significant unsecured debt could be paid, as well as to enable the property to be repaired. And the added benefit to all of this was that the monthly payment was lowered. Finally, there is the point that Mrs. Sanderson was finally conveyed her rightful interest in the property after paying at least one half of the monthly household expenses since it was purchased in 2002

For all of these reasons, the Debtor requests that this Honorable Court DENY the Chapter 7 trustee's motion.

CONNIE SUE CARICO
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was sent electronically on the 10th day of September, 2019, to the following:

Donald F. King,
Chapter 7 Trustee
Odin, Feldman & Pittleman, PC
1775 Wiehle Avenue, Suite 400
Reston VA 20190

/s/ Michael J. O. Sandler
Michael J. O. Sandler